

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**SYNERGY ONE LOCATING SERVICES, LLC  
and SAFE MARKX, LLC, as Joint Employers**

**and**

**INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 387,  
AFL-CIO**

**Cases 28-CA-137972  
28-CA-143708  
28-CA-145625  
28-CA-147819**

**DECISION AND ORDER**

Statement of the Cases

On May 5, 2015, Synergy One Locating Services, LLC and Safe MarkX, LLC, as Joint Employers (collectively, the Respondent), International Brotherhood of Electrical Workers, Local 387, AFL-CIO (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

**Findings of Fact**

**1. The Respondent's business**

At all material times, Synergy One Locating Services, LLC (Respondent Synergy) has been a limited liability company with an office and place of business in Phoenix, Arizona, and has been engaged in providing utility locating services for utility companies.

During the 12-month period ending March 9, 2015, Respondent Synergy, in conducting its business operations described above, provided services valued in excess of \$50,000 in states other than the State of Arizona.

At all material times, Respondent Synergy has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

At all material times, Safe MarkX, LLC (Respondent Safe MarkX) has been a limited liability company with an office and place of business in Phoenix, Arizona, and has been engaged in providing utility locating services for utility companies.

During the 12-month period ending March 9, 2015, Respondent Safe MarkX, in conducting its business operations described above, provided services valued in excess of \$50,000 in states other than the State of Arizona.

At all material times, Respondent Safe MarkX has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

At all material times, Respondent Synergy and Respondent Safe MarkX have been parties to a contract which provides that Respondent Synergy will utilize the utility locating services and employees of Respondent Safe MarkX.

At all material times, Respondent Safe MarkX has possessed and exercised control over the labor relations policy of and administered a common labor policy with respect to Respondent Synergy's employees.

At all material times, Respondent Safe MarkX and Respondent Synergy have been joint employers of certain employees referred or considered for employment by Respondent Safe MarkX and employed or considered for employment by Respondent Synergy.

## 2. The labor organization involved

The International Brotherhood of Electrical Workers, Local 387, AFL-CIO (the Union) is a labor organization within the meaning of Section 2(5) of the Act.

## 3. The appropriate unit

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time locators and lead locators employed by the Employer in the State of Arizona, excluding all other employees, guards, and supervisors as defined in the Act.

Since about December 16, 2014, a majority of the employees in the unit designated and selected the Union as their representative for the purposes of collective bargaining with the Respondent. This is embodied in a Certification of Representative that the Regional Director for Region 28 of the Board issued on December 29, 2014.

At all times since about December 29, 2014, based upon Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

### **ORDER**

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, Synergy One Locating Services, LLC and Safe MarkX, LLC, as Joint Employers, Phoenix, Arizona, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Promulgating overly broad rules that employees cease talking with other fellow and former employees.

(b) Promulgating an overly broad rule prohibiting its employees from engaging in union activity.

(c) Threatening employees by inviting them to resign in order to discourage their union activities.

(d) Threatening employees with loss of employment and closure of the Respondent's operations because of their support for the Union.

(e) Imposing more onerous and rigorous terms and conditions of employment on its employees by prohibiting them from assisting other employees with work assignments or denying employees assistance from other employees with work assignments.

(f) Issuing discriminatory directives to employees not to assist employees with work assignments.

(g) Threatening employees with wage reduction because of their support for the Union.

(h) Threatening employees with unspecified reprisals because of their support for the Union.

- (i) Disparaging employees for participating in the Board's process.
- (j) Threatening employees with termination if they engaged in union activity.
- (k) Threatening employees with stricter enforcement of work rules since they selected the Union as their bargaining representative.
- (l) Threatening employees with discharge if they failed to adhere to the stricter enforcement of work rules in place since they selected the Union as their bargaining representative.
- (m) Threatening employees with physical violence if they continued supporting the Union.
- (n) Threatening employees by informing them that employees were terminated because of their participation in the Board's process and because of their support for the Union.
- (o) Threatening employees with termination because they engaged in union and protected activities.
- (p) Interrogating employees about their concerted activities or activities on behalf of the Union.
- (q) Soliciting employee complaints and grievances to discourage their support for the Union.
- (r) Soliciting employees to remove the Union as their collective-bargaining representative.
- (s) Dealing directly with employees concerning terms and conditions of employment.
- (t) Failing and refusing to recognize and bargain in good faith with the Union as the exclusive collective-bargaining representative of employees in the unit.
- (u) Discharging employees because they engaged in concerted activities involving their terms and conditions of employment or in activities in support of the Union, and in order to discourage membership in the Union or in any other labor organization, or for participating in the Board's process.
- (v) Refusing to reinstate employees because of their support for the Union.
- (w) Unilaterally changing the terms and conditions of employment of its unit employees, by strictly enforcing its rules, reducing its flexibility with the rules, and

reducing the range of hours available to work, without first notifying the Union and reaching agreement with the Union or reaching an overall good faith impasse with the Union.

(x) Imposing discipline, including discharge, upon bargaining unit employees without first notifying the Union and providing it with the opportunity to bargain over the discipline to be imposed.

(y) Refusing to provide the Union with information that is relevant and necessary to its role as employees' exclusive collective-bargaining representative.

(z) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self organization, to form labor organizations, to join or assist the Union or any other labor organization, to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Upon request, bargain collectively with the Union as the exclusive representative of the following employees with respect to rates of pay, wages, hours of employment and other conditions of employment, and, if an understanding is reached, reduce it to writing and sign it; on resumption of bargaining, the Union's status as the exclusive collective-bargaining representative of the unit shall be extended for 12 months thereafter, as if the initial year of the certification had not expired in whole or in part:

All full-time and regular part-time locators and lead locators employed by the Employer in the State of Arizona, excluding all other employees, guards, and supervisors as defined in the Act.

(b) Within 14 days from the date of the Board's Order, if it has not already done so, offer, in writing, Mason Crisenbacker, Sean Cherry, Jacob Cherry, Troy Hager, Henry Maurice Pettit, Adam Valdez, Kevin Schroeder, Devin Koivisto, Timothy Montanez, Joshua Merino, Bryan McBride, Joe Moure, Edwin Cyrus Hare IV, Dan Huebner, David Venegas, Cory Jackson, James Redondo, Michael Cummings, Jason Lantrip, Manny Madrid, Pete Martinez, Stan Barker, Greg Digiordi, Garret Forrest, Sal Medina, and Jeff Rose full reinstatement to their former jobs, or if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights or privileges previously enjoyed.

(c) Within 14 days from the date of the Board's Order, remove from the Respondent's files any reference to the discharge of Crisenbacker, S. Cherry, J. Cherry, Hager, Pettit, Valdez, Schroeder, Koivisto, Montanez, Merino, McBride, Moure, Hare,

Huebner, Venegas, Jackson, Redondo, Cummings, Lantrip, Madrid, Martinez, Barker, Digiordi, Forrest, Medina, and Rose, and within 3 days thereafter, notify those employees, in writing, that this was done and that the discharges and discipline will not be used against them in any way.

(d) Make whole the following employees for loss of pay suffered by reason of the discrimination against them, by payment to them of the amounts set forth opposite their respective names and at the times set forth in the schedule as reflected in Appendix B. If any installment is not paid on or before the date due, the full unpaid amount shall become immediately due and payable and the Board may, without further notice, institute proceedings against the Respondent for the collection of the full indebtedness remaining due, with additional interest due on the entire unpaid balance from the date of default until full payment is received, computed in accordance with the formula set forth in *New Horizons, Inc.*, 283 NLRB 1173 (1987).

(e) Make whole the above-named employees for any additional loss of pay caused by the Respondent's failure, if any, to reinstate them in accordance with the provisions of this Order, within 14 days from the date of this Order, by payment to them of the respective amounts that they would have earned if properly reinstated, from the 15th day after the date of the Board's Order to the date of a proper offer of reinstatement, less their net earnings during such period, said amounts to be computed on a quarterly basis.

(f) Before implementing any changes in wages, hours, or other terms and conditions of employment, notify and, upon request, bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of unit employees.

(g) Provide the Union with the information requested in paragraphs 1 through 16 of its December 17, 2014 request.

(h) Within 14 days of service by the Region, post at its facilities in the Phoenix metropolitan area, copies of the attached notice marked "Appendix A." Copies of the notice, on forms provided by Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 2, 2014.

(i) In addition to physical posting of paper Notices, the Respondent shall distribute Notices electronically, by email, posting on an intranet or an internet site, or other electronic means, if the Respondent customarily communicates with its

employees by such means. The electronic posting shall remain posted for 60 consecutive days from the date it was originally posted. The Respondent will email the Region's Compliance Officer at [cheryl.leavengood@nrlrb.gov](mailto:cheryl.leavengood@nrlrb.gov) with a link to the electronic posting location on the same day as the posting. In the event that passwords or other log-on information is required to access the electronic posting, the Respondent agrees to provide such access information to the Region's Compliance Officer. If the Notice is distributed via e-mail, the Respondent will forward a copy of the email distributed to the Regional Compliance Officer.

(j) The Notice(s) will be read aloud by a responsible agent of the Respondent, by or in the presence of Dervon Haskins (Haskins), Brian Jennings (Jennings), or Mike Sturgill (Sturgill), and in the presence of an agent of the Board, or at the Respondent's option by an agent of the Board in the presence of Haskins, Jennings, or Sturgill, to all employees employed by the Respondent at its Arizona job sites, including at multiple meetings and in other languages, if necessary as determined by the Regional Director, to ensure that it is read aloud to all employees, within 14 days from the commencement of the standard posting period.

(k) This stipulation is subject to the approval of the Board and, immediately upon the approval by the Board, it will be retroactively effective to the date of execution of the stipulation.

(l) Within 21 days after service by the Region, file with the Regional Director for Region 28 a sworn certificate of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., July 1, 2015

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Kent Y. Hirozawa,	Member
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Harry I. Johnson, III,	Member
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Lauren McFerran,	Member
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(SEAL)

**NATIONAL LABOR RELATIONS BOARD**

## **APPENDIX A**

### **NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government**

#### **PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS**

#### **FEDERAL LAW GIVES YOU THE RIGHT TO:**

Form, join, or assist a union;  
Choose a representative to bargain with us on your behalf;  
Act together with other employees for your benefit and protection;  
Choose not to engage in any of these protected activities.

**WE WILL NOT** do anything to prevent you from exercising the above rights.

**WE WILL NOT** fail and refuse to bargain in good faith with the International Brotherhood of Electrical Workers Union, AFL-CIO (the Union) as the exclusive collective-bargaining representative of employees in the following appropriate bargaining unit (the unit):

All full-time and regular part-time locators and lead locators employed by the Employer in the State of Arizona; excluding all other employees, guards, and supervisors as defined in the Act.

**WE WILL NOT** implement changes that affect your wages, hours, and other terms and conditions of employment without first providing notice and an opportunity to bargain to the Union, including by unilaterally implementing our policies concerning daily schedule flexibility, our 30-ticket rule, overtime, assignment to project crews, insurance, assignment of work areas, provision of locating equipment batteries, and work productivity (sent via text message on December 16, 2014).

**WE WILL NOT** bypass the Union or deal directly with you by telling employees that if any work ticket is two days late, employees will be immediately discharged.

**WE WILL NOT** bypass the Union or deal directly with you by promising to remedy grievances.

**WE WILL NOT** refuse to provide the Union with information that is relevant and necessary to its role as your bargaining representative.



**WE WILL NOT** fail to give the Union notice and an opportunity to bargain before we discharge you.

**WE WILL NOT** promulgate overly broad rules that prohibit you from talking with other fellow and former employees.

**WE WILL NOT** promulgate an overly broad rule prohibiting you from engaging in union activity.

**WE WILL NOT** threaten employees with wage reduction because of their support for the Union.

**WE WILL NOT** threaten employees with unspecified reprisals because of their support for the Union.

**WE WILL NOT** threaten employees with physical violence if they continued supporting the Union.

**WE WILL NOT** threaten employees with termination because they engaged in union and protected activities.

**WE WILL NOT** solicit employee complaints and grievances to discourage their support for the Union.

**WE WILL NOT** solicit employees to remove the Union as their collective-bargaining representative.

**WE WILL NOT** disparage you because you engaged in union activity or participated in the National Labor Relations Board's processes.

**WE WILL NOT** tell you that the business will close if you try to form a union.

**WE WILL NOT** tell you that you will lose your job or that your wages will be cut if you try to form a union.

**WE WILL NOT** more strictly enforce work rules because you have engaged in union and protected concerted activities, or threaten you with discharge for failing to follow strictly enforced work rules.

**WE WILL NOT** threaten you by telling you that it is futile for you to support the Union.

**WE WILL NOT** threaten you with reprisals if you file charges with the National Labor Relations Board.

**WE WILL NOT** threaten you with unspecified reprisals by informing you that we intend to issue a rule to employees prohibiting them from engaging in union or protected concerted activities.

**WE WILL NOT** invite you to quit because you engage in union or protected concerted activities.

**WE WILL NOT** tell you that you cannot talk to others about the terms and conditions of your employment.

**WE WILL NOT** ask you about your concerted activities with other employees.

**WE WILL NOT** ask you about your union activities.

**WE WILL NOT** threaten you with discharge by asking you to resign because you engaged in concerted activities.

**WE WILL NOT** impose onerous and rigorous terms and conditions of employment on you by prohibiting you from assisting, or denying assistance to other employees with their work assignments because you engage in union and concerted activities.

**WE WILL NOT** issue discriminatory directives to you by prohibiting you from assisting, or denying assistance to other employees with their work assignments because you engage in union and concerted activities.

**WE WILL NOT** discharge you, refuse to hire you, or refuse to consider you for hire, because you engage in union activities, concerted activities or seek to file charges under the National Labor Relations Act.

**WE WILL NOT** in any other manner interfere with your rights under Section 7 of the Act.

**WE WILL**, upon request, bargain with the Union as the exclusive representative of the bargaining unit employees with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment and, if an understanding is reached, reduce it to writing and sign it. On resumption of bargaining, the Union's status as the exclusive collective-bargaining representative of the unit shall be extended for 12 months thereafter, as if the initial year of the certification had not expired in whole or in part.

**WE WILL** make Mason Crisenbacker, Sean Cherry, Jacob Cherry, Troy Hager, Henry Maurice Pettit, Adam Valdez, Kevin Schroeder, Devin Koivisto, Timothy Montanez, Joshua Merino, Bryan McBride, Joe Moure, Edwin Cyrus Hare IV, Dan Huebner, David Venegas, Cory Jackson, James Redondo, Michael Cummings, Jason Lantrip, Manny Madrid, Pete Martinez, Stan Barker, Greg Digiordi, Garret Forrest, Sal Medina, and Jeff Rose whole for any loss of earnings and other benefits suffered as a result of our discharge of them, with interest.

**WE WILL** remove from our files all references to the discharges of Mason Crisenbacker, Sean Cherry, Jacob Cherry, Troy Hager, Henry Maurice Pettit, Adam Valdez, Kevin Schroeder, Devin Koivisto, Timothy Montanez, Joshua Merino, Bryan McBride, Joe Moure, Edwin Cyrus Hare IV, Dan Huebner, David Venegas, Cory Jackson, James Redondo, Michael Cummings, Jason Lantrip, Manny Madrid, Pete Martinez, Stan Barker, Greg Digiordi, Garret Forrest, Sal Medina, and Jeff Rose, and **WE WILL** notify them in writing that this has been done and that the discharges will not be used against them in any way.

**WE WILL** offer, in writing, if we have not already done so, Mason Crisenbacker, Sean Cherry, Jacob Cherry, Troy Hager, Henry Maurice Pettit, Adam Valdez, Kevin Schroeder, Devin Koivisto, Timothy Montanez, Joshua Merino, Bryan McBride, Joe Moure, Edwin Cyrus Hare IV, Dan Huebner, David Venegas, Cory Jackson, James Redondo, Michael Cummings, Jason Lantrip, Manny Madrid, Pete Martinez, Stan Barker, Greg Digiordi, Garret Forrest, Sal Medina, and Jeff Rose full reinstatement to their former jobs, or if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

**WE WILL** provide the Union with the information it requested in paragraphs 1 through 16 of its December 17, 2014 request.

**SYNERGY ONE LOCATING SERVICES, LLC  
and SAFE MARKX, LLC, as Joint Employers**

The Board's decision can be found at [www.nlrb.gov/case/28-CA-137972](http://www.nlrb.gov/case/28-CA-137972) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



## APPENDIX B

	Due 14 Days From Board Approval		Due 30 Days from First Installment		Due 60 Days from First Installment		Due 90 Days from First Installment		Due 120 Days from First Installment		Due 150 Days from First Installment	
Claimant	Backpay	Int, Tax, Exp	Backpay	Int, Tax, Exp	Backpay	Int, Tax, Exp	Backpay	Int, Tax, Exp	Backpay	Int, Tax, Exp	Backpay	Int, Tax, Exp
Mason Crisenbacker	491	40	1,304	-	1,304	-	1,304	-	1,304	-	1,304	-
Jeff Rose	162	2	432	-	432	-	432	-	432	-	432	-
Adam Valdez	360	7	-	-	-	-	-	-	-	-	-	-
Stanley Jeff Barker	251	42	668	-	668	-	668	-	668	-	668	-
Jason Lanrip	-	-	-	-	-	-	-	-	-	-	-	-
Mike Cummings	136	3	-	-	-	-	-	-	-	-	-	-
James Redondo	384	8	-	-	-	-	-	-	-	-	-	-
Dave Vanagus	192	4	-	-	-	-	-	-	-	-	-	-
Dan Huebner	240	5	-	-	-	-	-	-	-	-	-	-
Joe Moure	272	5	-	-	-	-	-	-	-	-	-	-
Timothy Montanez	176	3	-	-	-	-	-	-	-	-	-	-
Devin Koivisto	244	5	-	-	-	-	-	-	-	-	-	-
Kevin Schroeder	232	5	-	-	-	-	-	-	-	-	-	-
Henry Maurice Paltit	972	19	-	-	-	-	-	-	-	-	-	-
Troy Hager	464	9	-	-	-	-	-	-	-	-	-	-
Sal Medina	544	11	-	-	-	-	-	-	-	-	-	-
Manny Madrid	480	9	-	-	-	-	-	-	-	-	-	-
Pete Martinez	464	9	-	-	-	-	-	-	-	-	-	-
Jacob Cherry	175	17	464	-	464	-	464	-	464	-	464	-
Josh Merino	464	9	-	-	-	-	-	-	-	-	-	-
Sean Cherry	768	851	2,095	-	2,095	-	2,095	-	2,095	-	2,095	-
Bryan McBride	497	468	1,322	468	1,322	468	1,322	468	1,322	468	1,322	468
Greg Dejordy	466	10	-	-	-	-	-	-	-	-	-	-
Edwin Here IV	812	16	-	-	-	-	-	-	-	-	-	-
Cory Jackson	1,008	19	-	-	-	-	-	-	-	-	-	-
Garrett Forrest	696	14	-	-	-	-	-	-	-	-	-	-
Total:	11,001	1,590	6,285	468	6,285	468	6,285	468	6,285	468	6,285	468
Subtotals:	12,591		6,753		6,753		6,753		6,753		6,753	
Total:	46,359											